

From: A.C. Ross
To: Microsoft ATR
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Subject: Microsoft Settlement Grossly Inadequate

I would like to add my voice to those calling for a rejection of the currently proposed DOJ settlement with Microsoft. Microsoft has demonstrated time after time both that it is not reluctant to use the monopoly power it was found guilty of wielding and that it is entirely unrepentant since the decision was handed down.

I'm a management consultant in the computer software industry and have been since the mid 1980s. My jobs in that period often included working or negotiating with large and small software companies who treated Microsoft's presence as the first major marketing issue to address. Always, managers explicitly asked the question, "Can we survive long enough before Microsoft embeds software like ours in Windows or ties Windows to it in some way to squeeze us out of the market." Although some companies may have lost their competitions through their own missteps, there are others, going as far back as STAC, that competed well and won their own court cases, only to be steamrolled by Microsoft's market power.

Transcripts from the trial show multiple instances of Microsoft's outright efforts to illegally divide up markets (the conversations over allocating non-Windows platforms to Netscape noted by Marc Andreessen) and to tie access to the Windows operating system to Draconian restrictions on the marketing decisions of hardware platform vendors.

I don't want to reiterate arguments and proofs that have been made in the press. My summary position starts with the fact that Microsoft was found guilty in federal court. The terms of the agreement are so tenuous and the remedies so weak that I have no confidence whatsoever that Microsoft will feel the need to comply with the spirit and will sail as close to the letter of the law as possible. Its conduct will be entirely unchanged. Indeed, it has clearly indicated that it does not agree with the decision, shows no remorse for its actions, and is safely positioned to violate laws until someone large enough has the resources to take them on.

Microsoft was found guilty, and the government is responsible for setting and enforcing remedies. If you want to get Microsoft's attention, you will have to define and enforce remedies that causes them to change their behavior. The current remedies merely enforce the public perception that a large corporation can buy its way out of any legal difficulties. If the monopoly laws are to mean anything in the future, you must enforce them, and you must make an example of the important role the government plays in ensuring compliance. Otherwise, we are not a nation of laws, but a nation for sale to the highest bidder.

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